IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8073 of 2005
Date of decision:10.10.2006

M/s. Telephone Cables Limited, Chandigarh

....Petitioner

versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Rahul Sharma, Advocate, for the petitioner.
Mr. Amol Rattan Singh, Addl.A.G, Punjab, for the respondents.

JUDGMENT:

1. This writ petition has been filed seeking direction for grant of sales tax incentives to the petitioner from the date of start of production in respect of expansion carried out by the assessee during the year 1992-93 and further direction for refund of tax.

2. Case of the petitioner is that it set up its unit for manufacture of Polythene Insulated Jelly Filled (PIJF) telephone cables with an installed capacity of 6.25 LCKM (Lac Conductor Kilo Meters), in the year 1989. The capacity was expanded in the year 1992-93. As per Industrial Policy 1996, Department of Industries and Commerce, provided certain incentives. On 7.7.1998, the petitioner made a representation seeking declaration as an electronic unit under the said policy with retrospective effect. The said representation was accepted and on 11.10.2001, the petitioner was granted sales tax exemption certificate w.e.f 6.8.2001 in terms of eligibility certificate granted effective from 6.8.2001 to 18.10.2005. Grievance made is that the exemption should have been granted from the start of production and not from the date of decision to grant exemption as the same does not fit in the Scheme of the Act and the Rules.

3. Stand taken on behalf of the respondents is that the petitioner applied for exemption only on 7.7.1998 and was collecting tax prior to that.

The tax having already been collected could not be refunded nor the petitioner could be given exemption.

4. We have heard learned counsel for the parties.

5. View taken by the respondents that the assessee having not claimed any exemption for the period from the date of production till 7.7.1998, was not entitled to exemption upto that period and could avail of exemption only for period thereafter. It cannot be held, in any manner, to be illegal or arbitrary. Having the tax collected from the customers on the turnover for the period prior to the application of the petitioners, the petitioners cannot now be permitted to turn around and claim that it should be granted exemption from a back date and the tax deposited by it should be refunded.

6. No ground is, thus, made out for interference in exercise of writ jurisdiction.

7. The writ petition is dismissed.

(Adarsh Kumar Goel)
Judge

Oct. 10, 2006 (Rajesh Bindal)
'gs' Judge